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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/657,275	09/09/2003	Andrew C. Florance	COS0003-CIP	3311

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EXAMINER

MCCLELLAN, JAMES S

ART UNIT	PAPER NUMBER
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3627

DATE MAILED: 07/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/657,275	Applicant(s) FLORANCE ET AL.	
	Examiner James S. McClellan	Art Unit 3627	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 April 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) 9 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 and 10-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 September 2003 and 02 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>10/4/04, 6/28/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Claim 9 is withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to nonelected species Group I, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 4/13/05. Applicant alleges that a complete search of elected Group II will necessarily complete the search for Group I. The Examiner respectfully disagrees. The current application is classified in class 705 (Business Methods) and the current search template in class 705 requires a text search of U.S. and foreign patent publication databases and other non-patent literature databases. A proper text search of group II would not necessarily include all of the search terms required for Group I. Therefore, it is the Examiner's position that searching both species groups would be a burden.
2. This application contains claim 9 drawn to an invention nonelected with traverse in the response filed on 4/13/05. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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4. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,996,135 (hereinafter “Roy ‘135”).

It is noted that multiple cited US Patents are issued to Roy et al. The patent relied upon in this rejection and all other current rejections is Roy ‘135 (US 5,996,135).

Regarding claim 8, Roy ‘135 discloses a method of retrieving geographic-based real estate (see column 11, lines 20-26) data comprising: receiving an area drawn on a map (see column 3, lines 46-50); converting the drawn area into pixels (see column 9, lines 57-64); converting the pixels into latitude and longitude coordinates (see column 14, lines 13-15); calculating a spatial index based on the latitude and longitude coordinates (see column 3, lines 46-51, “using a spatial technique”); searching the real estate database for properties matching the latitude and longitude coordinates and the spatial index (see column 3, lines 46-51 and column 14, lines 13-15); and displaying the matching properties (see column 11, lines 20-26, “user reviews real estate listings using the map viewer”).

It is noted that Roy ‘135 does not explicitly disclose a method of retrieving “commercial” real estate data.

Regarding the descriptive material as recited in claim 8 (“commercial” real estate), the Examiner finds these recitations are nonfunctional descriptive material. The descriptive material will not distinguish the claimed invention over the prior art in terms of patentability because the data does not functionally relate to the steps of the method. See *Gulack*, 703 F.2d at 1385, 217 USPQ at 404; *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994). See also MPEP §2106 IV B. In this case the term “commercial” does not functionally relate to the steps in the claimed method. In other words, the steps of “receiving”, “converting”, “calculating”,

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“searching”, and “displaying” are in no way dependent upon the content of “commercial” real estate as opposed to any other type of real estate.

5. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Roy ‘135 in view of U.S. Patent No. 5,841,443 (hereinafter “Einkauf”).

Roy ‘135 discloses all the features of claim 10 as discussed above in paragraph 4, but fails to explicitly disclose the use of converting the drawn area into multiple quadrangles based on the polygon.

Einkauf teaches the use of dividing polygons into a plurality of smaller polygons (see Abstract).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Roy ‘135 with subdivision of polygons as taught by Einkauf, because subdivision of the polygon simplifies the area searched whereby increasing efficiency of the system.

6. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Roy ‘135 in view of U.S. Patent No. 6,674,849 (hereinafter “Froeberg”).

Roy ‘135 discloses all the features of claim 10 as discussed above in paragraph 4, but fails to explicitly disclose the use of converting longitude and latitude coordinates using an XML message.

Froeberg teaches the use of converting longitude and latitude coordinates using an XML message (see column 3, lines 12-15 and column 5, lines 17-26).

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It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Roy '135 with the use of XML as taught by Froeberg, because XML allows web designers increased flexibility in organizing and presenting information.

7. Claims 1, 3, 5, and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Roy '135 in view of U.S. Patent No. 4,870,576 (hereinafter "Tornetta '576").

It is noted that multiple cited US Patents are issued to Tornetta. The patent relied upon in this rejection and all other current rejections is Tornetta '576 (US 4,870,576).

Regarding **claim 1**, Roy '135 discloses a method for disseminating information contained in the real estate database (see column 11, lines 20-26) comprising: receiving from a user a series of points on a map that define a polygonal search area (see column 3, lines 46-50); searching the real estate database for properties within the polygonal search area that meet user map inputs (see column 11, lines 20-26); and displaying, to the user, information about the properties within the polygonal search area that meet the use inputs (see column 11, lines 20-26) and [**claim 3**] displaying comprises plotting an icon (an object) on the map a location corresponding to a property within the polygonal search area that meets the user inputs (see column 3, lines 46-50 and column 11, lines 20-26). Regarding claim 5, Roy '135 teaches displaying property description (relative location compared to schools and parks) and price information (see column 11, lines 20-26). Further regarding claim 5, the Examiner takes Official Notice that displaying the address of the property would be obvious to one of ordinary skill in the art at the time the invention was made to clearly identify the property and allow the user to physically visit the property.

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Roy '135 fails to explicitly disclose the use of receiving additional search attributes from the use related to real estate. However, it is noted that Roy '135 allows the user to make requests for additional information for the map picture (see column 3, lines 21-24).

Tornetta '576 teaches the use of receiving additional search attributes from the use related to real estate (see column 8, lines 1-4; see also column 9, lines 42-46).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Roy '135 with additional search attributes as taught by Tornetta '576, because inputting additional search attributes allows the system to better serve the user by providing more relevant search results.

8. Claims 2, 13, and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Roy '135 in view of Tornetta '576 as applied to claims 1, 3, and 12 above, and further in view of Official Notice.

The combination of Roy '135 and Tornetta '576 disclose all the claimed elements except for specific search attributes including lease information (claim 2), price per building square foot (claim 14), gross acres (claim 14), and year built (claim 14).

The Examiner takes Official Notice (see MPEP 2144.03) that lease information, price/sq. foot, gross acres, and year built are old and well known search attributes.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Roy and Tornetta with search attributes as well known in the art, because additional search attributes that are well known in the art provide further search refinement, wherein improving the quality of the search.

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9. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Roy '135 in view of Tornetta '576 as applied to claims 1 and 3 above, and further in view of U.S. Patent No. 5,185,857 (hereinafter "Rozmanith").

The combination of Roy '135 and Tornetta '576 disclose all the claimed elements except for displaying a photograph of a property when a mouse pointer is positioned over the icon. It is noted that Roy '135 discloses accessing information about a map object (icon) when a user moves a cursor of the object (see column 12, lines 40-47).

Rozmanith teaches the use of a potential home buyer searching for properties electronically and the ability to access a photograph of the property (see paragraph bridging columns 10-11; "color still and or moving pictures of the listing").

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Roy '135 with displaying property photos as taught by Rozmanith, because providing property photos allows the potential purchaser more detailed information regarding the appearance of the property to better make a purchasing decision.

10. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Roy '135 in view of Tornetta '576 as applied to claim 1 above, and further in view of U.S. Patent No. 5,978,804 (hereinafter "Dietzman").

The combination of Roy '135 and Tornetta '576 disclose all the claimed elements except the polygon search area is irregular.

Dietzman teaches the use of providing a map query by selecting an irregular polygon by the user (see column 43, lines 40-44; see also column 44, line 65-column 45, line 3).

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It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Roy '135 with irregular polygons as taught by Dietzman, because allowing a user to select search information to an irregular polygon will provide the user with a more controlled search request that will likely return more desirable results.

11. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Roy '135 in view of Tornetta '576 as applied to claim 1 above, and further in view of U.S. Patent No. 4,635,136 (hereinafter "Ciampa").

The combination of Roy '135 and Tornetta '576 disclose all the claimed elements except the map is an aerial photograph.

Ciampa teaches the use of an aerial photograph suitable for real estate information (see column 1, lines 14-23).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Roy '135 with aerial photographs as taught by Ciampa, because the use of aerial photographs aids a user in determining the position of a property and allow the user to visually inspect the area neighboring a selected property.

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to Applicant's disclosure.

Tornetta (US 5,032,989) is cited of interest for disclosing a real estate search and location system and method.

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Mayo (US 6,678,663) is cited of interest for disclosing a system for searching commercial real estate (see Figure 1; see also column 5, lines 20-39).

Roy et al. (US 6,337,693) is cited of interest for disclosing a vector-based geographic data system that allows searching real estate information utilizing user selected polygon areas.

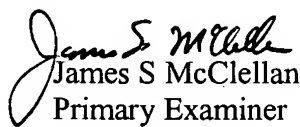
Du (US 6,836,270) is cited of interest for disclosing a 3-D Map data visualization including map icons and a property database.

Brown (US 5,794,216) is cited of interest for disclosing a method and system for data acquisition in a real estate database.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to James S. McClellan whose telephone number is (571) 272-6786. The examiner can normally be reached on M-F (9:30-6:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alexander Kalinowski can be reached on (571) 272-6771. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


James S. McClellan
Primary Examiner
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jsm

July 8, 2005